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No. 80-1576

IN THE

Supreme Court of the United States

October Term, 1980

PRINCETON UNIVERSITY and STATE OF NEW JERSEY,
Appellants,

—against—

CHRIS SCHMID,
Appellee.

On Appeal From the Supreme Court of New Jersey

BRIEF OF AMICUS CURIAE ASSOCIATION OF INDEPENDENT COLLEGES AND UNIVERSITIES IN NEW JERSEY IN SUPPORT OF JURISDICTIONAL STATEMENT

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INTEREST OF THE *AMICUS*

This is a brief on behalf of the Association of Independent Colleges and Universities in New Jersey (herein "Association") as *amicus curiae*, submitted with the consent of all parties.

The Association was also *amicus* in the proceedings below before the Supreme Court of New Jersey.

The Association is a non-profit corporation whose members are private colleges and universities located in the State of New Jersey. The members of the Association are as follows:

Name	*Location*	*Approximate Number of Students*
Bloomfield College	Bloomfield	2,100
*Caldwell College	Caldwell	720
Centenary College	Hackettstown	950
College of Saint Elizabeth	Convent Station	850
Drew University	Madison (Morris County)	2,525
Fairleigh Dickenson University	Rutherford & other locations	20,125
*Felician College	Lodi	765
Georgian Court College	Lakewood	1,385
Monmouth College	Long Branch	3,825
Princeton University	Princeton	6,165
Rider College	Lawrenceville	5,730
*Saint Peter's University	Jersey City	4,090
Seton Hall University	So. Orange & Newark	10,225
Stevens Institute of Technology	Hoboken	2,830
Upsala College	East Orange	1,725
Westminster Choir College	Princeton	440

*Institution with religious affiliation

Each of these diverse institutions owns both real and personal property which it uses in its particular educational mission. Each of these institutions is concerned about its ability to formulate its own policies and goals with respect to the dissemination of information on, in or through its facilities. Each of these institutions believes that the ruling in this case by the New Jersey Supreme Court deters it from formulating, implementing and expressing its own institutional policies and goals.

ARGUMENT

The Association joins in the Jurisdictional Statement herein filed by Princeton University, and in particular wishes to emphasize that the decision below denies its members the freedom to pursue their academic objectives without state interference.

Prior to the decision below, each member operated on the assumption that it could control its own facilities based on *its* understanding of its own particular educational goals, policies and mission. Each institution assumed that what was expressed on its campus was not the subject of governmental control. Now, the Supreme Court of New Jersey tells us that these assumptions are not fully correct. It is now the *Court's* understanding of the particular institution's "goals" (App. 29a), "purposes" (App. 29a), "policies" (App. 30a) and "mission" (App. 29a) that is ultimately the controlling factor.

It may well be that in most cases the Court and the institution would agree on the aims of any particular institution. However, this does not mitigate the result where there is no such agreement. The member institutions view the intrusion of government into their most basic responsibility as a change which is fundamental to the concept of private education and as a very significant "chilling" of their rights of expression and use of their property.

The issue of what may be expressed on the campus of a private educational institution should be left to its trustees, administrators, faculty, alumni and students. It is these persons whose rights are reduced when State government regulates the policy of the institution.

There is a perspective of this case that cannot be viewed when only the rights of Princeton University are considered. One of the major reasons for the need to

protect the constitutional rights of private educational institutions is to provide for a diversity of educational philosophy and expression. For example, a comparison of Princeton University with its neighbor, Westminster Choir College will reveal great diversity. The Association believes that it is critical to protect this diversity. Permitting a governmental entity to regulate expression on both the campus of Princeton University and on the Choir College, however benign the initial regulation might be, is in our view a certain prescription for loss of diversity.

CONCLUSION

The Court should note probable jurisdiction of this matter because of its great importance to all the private educational institutions in New Jersey and because of the need to protect the constitutional rights of each of these varied institutions to express their views and ideas free of governmental interference.

Respectfully submitted,

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